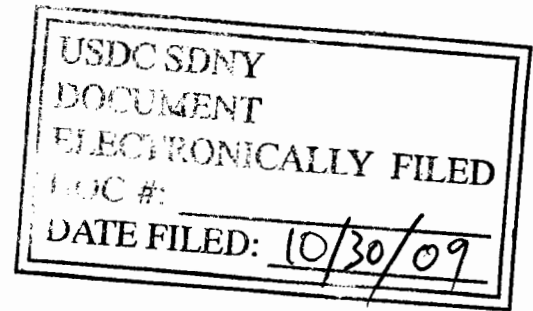


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA

-against-

MICHAEL HURST

Defendant

ORDER

04 Cr. 119-02 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

On September 22, 2009 Michael Hurst submitted a letter complaining that his prison conditions violate the United States Constitution. Without the filing of a complaint and the commencement of an independent civil action, I lack jurisdiction to review his claim. Fed. R. Civ. P. 3 (“A civil action is commenced by filing a complaint with the court.”); see also United States v. Huss, 520 F.2d 598, 602 (rejecting defendants’ argument “that a sentencing court has the inherent power to control the place and conditions of confinement”). Moreover, courts lack jurisdiction to entertain complaints of prison conditions except to the extent that such complaints allege non-conclusory constitutional violations, Pino v. Dalsheim, 558 F. Supp. 673, 675 (S.D.N.Y. 1983) (“Only when a prison regulation or practice offends a constitutional guarantee will a federal court step in and uphold that fundamental right.”) (citing Procunier v. Martinez, 416 U.S. 396, 405-06 (1974)), and then subject to the limitations of 42 U.S.C. §1997e(a) or 28 U.S.C. § 2241.

SO ORDERED.

Dated: October 29, 2009
New York, New York

ALVIN K. HELLERSTEIN
United States District Judge